

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

*P.L. 2
Roberts*

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118291*

FILE: B-205070

DATE: May 3, 1982

MATTER OF Johnson Graphic Industries Inc.

DIGEST:

GAO will not disturb a procuring agency's determination that a firm is nonresponsible when that determination is reasonably based on the firm's recent history of late deliveries.

Johnson Graphic Industries Inc. protests the determination that it is a nonresponsible bidder under solicitation No. 352-773/774 issued by the Government Printing Office (GPO) for the printing of United States Postal Service express mail labels. For the following reasons, we deny the protest.

Johnson submitted the low responsive bid under the solicitation. GPO, however, declared Johnson nonresponsible and rejected the bid based on the firm's record of late deliveries under two of six GPO contracts during the preceding four-month period. One of these late deliveries occurred under the previous contract for the printing of express mail labels. GPO also considered the fact that a recent printing contract which Johnson had with GPO was terminated for default because of late deliveries.

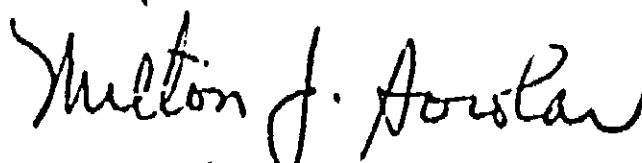
The protester contends that its past performance problems were primarily due to contracts having, in Johnson's view, unnecessarily short and unrealistic delivery schedules, and on Johnson's inability to obtain necessary printing materials in order to make timely deliveries. Johnson asserts that its overall performance history is good, and that it has delivered several printing requirements ahead of schedule.

In response to these contentions, GPO justifies the necessity for tight delivery schedules in its printing contracts by noting that these schedules are set by the agencies ordering the printing; in the instant case, for example, the United States Postal Service established the required delivery schedule. GPO reports that it makes every effort to meet the needs of the agencies requiring the printing while obtaining adequate competition. GPO also argues that Johnson should not be excused from late deliveries due to that firm's inability to obtain printing materials because, by signing a contract, Johnson became responsible for obtaining the necessary materials to produce a product within the agreed-upon schedule.

We have long recognized that the procuring agency has broad discretion in making responsibility determinations. Deciding a prospective contractor's probable ability to perform a contract involves a forecast which must of necessity be a matter of judgment. Such judgment should of course be based on fact and reached in good faith; however, it is only proper that it be left largely to the sound administrative discretion of the contracting agency involved. The agency logically is in the best position to assess responsibility; must bear the major brunt of any difficulties experienced in obtaining required performance; and must maintain day-to-day relations with the contractor. 43 Comp. Gen. 229 (1963). Thus, we will not disturb an agency determination of nonresponsibility unless it lacks a reasonable basis. Id; The Mark Twain Hotel, B-205034, October 28, 1981, 81-2 CPD 361.

One of the important elements of a bidder's responsibility is the capability to perform in accordance with the requirements set forth in the solicitation. Leasco Information Products, Inc., et al., 53 Comp. Gen. 932 (1974), 74-1 CPD 314. Since timely delivery is an important requirement in any solicitation, we see no basis to object to GPO's determination, based on a preaward review of Johnson's past performance record that disclosed recent delivery delinquencies, that Johnson was nonresponsible, especially in view of the short delivery schedule imposed by the Postal Service and therefore required in GPO's solicitation.

The protest is denied.



Acting Comptroller General
of the United States